

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

BARBARA SMITH

County of Residence of First Listed Plaintiff Pennsylvania  
Attorneys (Firm Name, Address, and Telephone Number)

Brandon A. Swartz, Esquire  
Todd M. Felzer, Esquire  
SWARTZ CULLETON, PC  
547 E. Washington Street  
Newtown, PA 18940  
(215) 550-6553

## DEFENDANTS

LOWE'S HOME CENTERS, LLC d/b/a LOWE'S HOME IMPROVEMENT

County of Residence of First Listed Defendant North Carolina  
(IN U.S. PLAINTIFF CASES ONLY)  
Attorneys (If Known)

David S. Cohen, Esquire  
Capri R. Stevens, Esquire  
MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, LLP  
Centre Square, West Tower  
1500 Market Street, Suite 4100  
Philadelphia, PA 19102  
(215) 735-7200

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                | DEF   | PTF                     | DEF                                |
|---|------------------------------------|---|-------------------------|------------------------------------|
| Citizen of This State                   | <input checked="" type="radio"/> 1 | <input type="radio"/> 1 Incorporated or Principal Place of Business In This State     | <input type="radio"/> 4 | <input type="radio"/> 4            |
| Citizen of Another State                | <input type="radio"/> 2            | <input type="radio"/> 2 Incorporated and Principal Place of Business In Another State | <input type="radio"/> 5 | <input checked="" type="radio"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="radio"/> 3            | <input type="radio"/> 3 Foreign Nation  | <input type="radio"/> 6 | <input type="radio"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="radio"/> 110 Insurance <input type="radio"/> 120 Marine <input type="radio"/> 130 Miller Act <input type="radio"/> 140 Negotiable Instrument <input type="radio"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="radio"/> 151 Medicare Act <input type="radio"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="radio"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="radio"/> 160 Stockholders' Suits <input type="radio"/> 190 Other Contract <input type="radio"/> 195 Contract Product Liability <input type="radio"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="radio"/> 310 Airplane <input type="radio"/> 315 Airplane Product Liability <input type="radio"/> 320 Assault, Libel & Slander <input type="radio"/> 330 Federal Employers' Liability <input type="radio"/> 340 Marine <input type="radio"/> 345 Marine Product Liability <input checked="" type="radio"/> 360 Other Personal Injury <input type="radio"/> 362 Personal Injury - Medical Malpractice	<input type="radio"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="radio"/> 690 Other	<input type="radio"/> 422 Appeal 28 USC 158 <input type="radio"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="radio"/> 820 Copyrights <input type="radio"/> 830 Patent <input type="radio"/> 835 Patent - Abbreviated New Drug Application <input type="radio"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="radio"/> 861 HIA (1395ff) <input type="radio"/> 862 Black Lung (923) <input type="radio"/> 863 DIWC/DIWW (405(g)) <input type="radio"/> 864 SSID Title XVI <input type="radio"/> 865 RSI (405(g))	<input type="radio"/> 375 False Claims Act <input type="radio"/> 376 Qui Tam (31 USC 3729(a)) <input type="radio"/> 400 State Reapportionment <input type="radio"/> 410 Antitrust <input type="radio"/> 430 Banks and Banking <input type="radio"/> 450 Commerce <input type="radio"/> 460 Deportation <input type="radio"/> 470 Racketeer Influenced and Corrupt Organizations Act <input type="radio"/> 480 Consumer Credit <input type="radio"/> 490 Cable/Sat TV <input type="radio"/> 850 Securities/Commodities/Exchange <input type="radio"/> 890 Other Statutory Actions <input type="radio"/> 891 Agricultural Acts <input type="radio"/> 893 Environmental Matters <input type="radio"/> 895 Freedom of Information Act <input type="radio"/> 896 Arbitration <input type="radio"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="radio"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="radio"/> 210 Land Condemnation <input type="radio"/> 220 Foreclosure <input type="radio"/> 230 Rent Lease & Ejectment <input type="radio"/> 240 Torts to Land <input type="radio"/> 245 Tort Product Liability <input type="radio"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="radio"/> 440 Other Civil Rights <input type="radio"/> 441 Voting <input type="radio"/> 442 Employment <input type="radio"/> 443 Housing/Accommodations <input type="radio"/> 445 Amer. w/Disabilities - Employment <input type="radio"/> 446 Amer. w/Disabilities - Other <input type="radio"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="radio"/> 463 Alien Detainee <input type="radio"/> 510 Motions to Vacate Sentence <input type="radio"/> 530 General <input type="radio"/> 535 Death Penalty <b>Other:</b> <input type="radio"/> 540 Mandamus & Other <input type="radio"/> 550 Civil Rights <input type="radio"/> 555 Prison Condition <input type="radio"/> 560 Civil Detainee - <del>Civilian</del>	<input type="radio"/> 710 Fair Labor Standards Act <input type="radio"/> 720 Labor/Management Relations <input type="radio"/> 740 Railway Labor Act <input type="radio"/> 751 Family and Medical Leave Act <input type="radio"/> 790 Other Labor Litigation <input type="radio"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="radio"/> 462 Naturalization Application <input type="radio"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="radio"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="radio"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☒ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC sec 1332 (a)(1) and 1441 (A)

Brief description of cause: Plaintiff is alleging a trip and fall on a wooden pallet

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

## DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

1/4/2022

/s/ DAVID S. COHEN, ESQUIRE

## FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to appropriate calendar)

Address of Plaintiff: 9737 Reed Rambler Drive, Philadelphia, PA 19115Address of Defendant: North CarolinaPlace of Accident, Incident or Transaction: 425 Easton Road, Warrington, PA**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil Cases are deemed related when yes is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/4/2022

/s/ David S. Cohen  
Attorney-at-law/Pro Se Plaintiff62545  
Attorney I.D. # (if applicable)**CIVIL:** (Place ☒ in one category only)**A. Federal Question Cases:**

1. ☐ Indemnity Contract, Marine Contract, and All other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All Other Federal Question Cases  
(Please specify) \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) - Premises
7. ☐ Products Liability
8. ☐ Products Liability - Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(The effect of this certification is to remove the case from eligibility for arbitration)

I, \_\_\_\_\_, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;☒ Relief other than monetary damages is sought.DATE: \_\_\_\_\_ Attorney ID # \_\_\_\_\_  
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**CASE MANAGEMENT TRACK DESIGNATION FORM**

BARBARA SMITH  <p style="text-align: center;">vs.</p> LOWE'S HOME CENTERS, LLC d/b/a LOWE'S HOME IMPROVEMENT		CIVIL ACTION     NO.
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In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See ' 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. ' 2241 through ' 2255. ( )
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. ( X )

DATE: 1/4/2022

**/s/ David S. Cohen**  
DAVID S. COHEN, ESQUIRE

Attorney-at-Law

Attorney ID # 62545

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BARBARA SMITH

vs.

LOWE'S HOME CENTERS, LLC d/b/a  
LOWE'S HOME IMPROVEMENT

CIVIL ACTION

NO.

**NOTICE OF REMOVAL**

1. On December 13, 2021, Plaintiffs filed a Complaint in the Court of Common Pleas of Delaware County. See a copy of the Complaint attached hereto and marked as Exhibit "A."

2. Moving Defendant was served on December 17, 2021.

3. Counsel for Moving Defendant was assigned the defense of the suit on December 20, 2021.

4. As provided by 28 U.S.C. §1446(b)(1), the instant Notice is being filed on January , 2022. Thus, the instant Notice of Removal is timely filed.

5. In the Complaint, Plaintiffs aver that they are domiciled at her Warrington, Pennsylvania address listed in the Complaint and, thus, she is a citizen of Pennsylvania.

6. Defendant, Lowe's Home Centers, LLC is a limited liability company registered in North Carolina. See Exhibit "B", a true and correct copy of the declaration of Paul Lombardi.

7. It is well established law that a limited liability company's citizenship for diversity purposes is defined by the citizenship of its members. Zambelli Fireworks Mfg. Co. v. Wood, 592 F.3d 412, 420 (3d Cir. 2010).



8. Lowe's Home Centers, LLC's sole member is Lowe's Companies, Inc. See Exhibit "B".

9. Lowe's Companies, Inc. is a North Carolina corporation. See Exhibit "B".

10. Lowe's Companies, Inc.'s registered office for service is 327 Hillsborough Street, Raleigh, North Carolina. See Exhibit "B".

11. Lowe's Companies, Inc.'s principal place of business is 1000 Lowe's Boulevard NB4TA, Mooresville, North Carolina. See Exhibit "B".

12. Therefore, for the purposes of diversity jurisdiction, Defendant adopts the citizenship of its single member, rendering it a citizen of North Carolina.

13. Plaintiff is a citizen of Pennsylvania and Moving Defendant is a citizen of North Carolina, both at the time of the filing of the Complaint, continuing to and included at the time of the filing of this Notice of Removal.

14. Thus, there exists diversity of citizenship for this Court to have jurisdiction over this matter.

15. In the Complaint, Plaintiffs seek damages in excess of the Arbitration limits of \$50,000.00. See Exhibit "A."

16. Plaintiff specifically alleges that on June 12, 2021, Plaintiff, Barbara Smith, was injured at the Lowe's and as a result, allegedly suffered severe and multiple injuries. See Exhibit "A".

17. Based on the allegations in Plaintiffs' Complaint, the amount in controversy is alleged to be in excess of \$75,000.00. See Exhibit "A."

18. As such, the above-captioned civil action is one of which this Honorable Court has original jurisdiction pursuant to Title 28 United States Code §1332, based upon

the fact that there exists diversity of citizenship between the parties and the amount in controversy is alleged to be in excess of \$75,000.00, and it is accordingly one which may be removed to this Honorable Court by Notice pursuant to Title 28 United States Code §1441.

**WHEREFORE**, Moving Defendant respectfully requests that the above action now pending in the Court of Common Pleas of Philadelphia County, Pennsylvania be removed to this Honorable Court.

**MINTZER, SAROWITZ, ZERIS, LEDVA  
& MEYERS, LLP**

BY: /s/ David S. Cohen

DAVID S. COHEN, ESQUIRE  
Attorney for Defendant, LOWE'S HOME CENTERS,  
LLC d/b/a LOWE'S HOME IMPROVEMENT  
Centre Square, West Tower  
1500 Market Street  
Suite 4100  
Philadelphia, PA 19102  
(215) 735-7200  
**MSZL&M File No. 003830.000347**

Date: 1/4/2022

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARBARA SMITH

vs.

LOWE'S HOME CENTERS, LLC d/b/a  
LOWE'S HOME IMPROVEMENT

CIVIL ACTION

NO.

**CERTIFICATE OF SERVICE**

I, DAVID S. COHEN, ESQUIRE, do hereby certify that a true and correct copy of the within Notice of Removal was forwarded via the United States District Court's Electronic Filing system on the 4<sup>th</sup> day of January, 2022 to the following:

Brandon A. Swartz, Esquire  
Todd M. Felzer, Esquire  
SWARTZ CULLETON, PC  
547 E. Washington Street  
Newtown, PA 18940

/s/ David S. Cohen  
DAVID S. COHEN, ESQUIRE